

File No. **40483** 11. County: **PT** Basin: **BIG BLUE CREEK** Stream: **NA** Formation Code: **115** Special Use: **NA**

12. Points of Diversion (Rate and Quantity stored by right, not by PD.)											Rate and Quantity								
CHK	MOD	DEL	ENT	PDIV	Qualifier	S	T	R	ID	'N	'W	Comment (AKA Line)	Rate gpm	Quantity mgy	Rate gpm	Quantity mgy	Overlap PD Files		
DEL	69687	SW	NW	NE		10	10	8E	10	4546	2574	GEO CTR	250	12.000	250	12.000	41694	44686	48308
MOD	35431	NW	NW	NE		10	10	8E	3	4739	2630	North STANDBY WELL #4	0	0	0	0	41694	44686	48308
MOD	66204	SW	NW	NE		10	10	8E	9	4353	2517	BATT 1 OF 2 - WELL #5	0	0	41694	44686	48308		
ENT	90793	SW	NW	NE		10	10	8E		4175	2280	BATT 1 OF 2 - WELL #6	0	0	41694	44686	48308		
ENT	90794	SW	NW	NE		10	10	8E		4264	2399	GEO CTR	250	12.000	250	12.000	41694	44686	48308

13. Storage: Rate **BATT ID 2386** NF Quantity ac/ft Additional Rate NF Additional Quantity ac/ft

14. Limitation: af/yr at gpm (cfs) when combined with file number(s) **NONE NO CHANGE**
 Limitation: af/yr at gpm (cfs) when combined with file number(s)

15. 5YR Allocation: Allocation Type Start Year 5 YR Amount Amount Unit Base Acres Comment

16. Place of Use						NE¼				NW¼				SW¼				SE¼				Total	Owner	Chg?	Overlap Files		
CHK	MOD	DEL	ENT	PUSE	ID	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼	NE ¼	NW ¼	SW ¼	SE ¼						
CHK	54223	3	10	8E	2	TIMBER CREEK WATER & SEWER BENEFIT DISTRICT (SE)																	8b	NO	41694	44686	48308

Base Acres: Year: Minimum Reasonable Quantity:
 Comments:

KANSAS DEPARTMENT OF AGRICULTURE
Division of Water Resources

M E M O R A N D U M

TO: Files

DATE: February 1, 2024

FROM: Leslie Ireland

RE: Water Right, File Nos. 40,483 & 41,694
Appropriation of Water, File Nos. 44,686 & 48,308

Chad Kinsley, on behalf of the Timber Creek Water & Sewer Benefit District, owner of the referenced files authorized for municipal use filed applications on February 23, 2023, requesting approval to change the point of diversion authorized by the referenced files located in the Big Blue River Basin, Pottawatomie County. The Entity is proposing to complete a new well in their existing battery of well and retain an old battery well as a standby well.

The subject file are not abandoned, as two files were certified in 2018. The files are in compliance with K.S.A. 82a-732. The applications comply with K.A.R. 5-5-2a, *Complete change application*, as the applicant worked with Brad Vincent, GWA.

The referenced files overlap in place of use and point of diversion. They authorize a geographic center of two (2) wells with a maximum combined quantity authorized under the most junior appropriation of 60.00 million gallons (mgy) (184.13 acre-feet (AF)) but limited to 80 mgy at 450 gallons per minute (gpm) (1.00 c.f.s) with File Nos. 40,483; 41,694 & 44,686. The geographic center is authorized East of Elbo Creek a tributary stream to the Big Blue River and is identified as being located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ with the distance from the Southeast corner of Section 10, determined to be approximately 4,546 feet North and 2,574 feet West of said section corner, in Township 10 South, Range 8 East, Pottawatomie County. The 1995 completed wells had a reported depth of approximately 60 feet with a static water level of 40 feet. The wells are not located within a special use area and the source of supply has been determined to be the Newman Terrace (Code 115) Big Blue Basin.

The proposal is to complete a new battery well to the South and East of the existing wells and tributaries. The new well identified as Well #6 will be approximately 4,175 feet North and 2,280 feet West of the Southeast corner of Section 10, in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$). The new well is approximately 296 feet from the well identified as Well #5 that will be the North well of the battery of two(2) wells. The most Northern well of the battery identified as Well #4, located approximately 4,739 feet North and 2,630 feet West of the Southeast corner of Section 10, in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) is proposed to operate as a standby well.

The adding and removing of wells will result in the geographic center shifting approximately 333 feet to the Southeast. It will be located approximately 4,264 feet North and 2,399 feet West of the Southeast corner of Section 10, in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$). The quantity and rate for each referenced file will remain as authorized.

The submitted well log and hydrology information indicates the source of supply for the new well with a depth of approximately 70 feet to limestone and a static water level of 35.3 feet in June 2021, is in the same source of supply, Newman Terrace (Code 115) Big Blue Basin. The submitted pump tests indicate a minor drawdown and a steady rate of recovery.

The distance between the two wells comprising the battery, that they will draw water from the same local source of supply and are authorized to pump at a rate of 450 gallons per minute, indicate they meet the definition of a battery of wells, per K.A.R. 5-1-1(n).

The retained well identified as Well #4 and the Standby Well, authorized location will be:

one (1) well located in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 10, more particularly described as being near a point 4,739 feet North and 2,630 feet West of the Southeast corner of said section, in Township 10 South, Range 8 East, Pottawatomie County, Kansas, (Standby Well).

The proposed standby well will be required to meet K.A.R. 5-1-2 (c) *Standby wells*. The approval for the proposed standby well will contain the wording that it shall not be operated at the same time as the wells comprising the battery, except for maintenance, testing, fire protection.

The domestic and non-domestic wells have been identified by KGS records and the area well operator. There are approximately 14 possible domestic wells and one(1) industrial battery of two(2) wells (File No. 41,179) located within one-half ($\frac{1}{2}$) mile of the new geographic center.

Notification letters were sent on January 3, 2024, as required by K.A.R. 82a-1906 for comments on the proposed changes. No comments were received.

It has previously been determined the wells in this formation do not benefit from releases of assurance water controlled by Kansas River Water Assurance District No. 1. This entity was not contacted for a comment.

The proposed shift of the geographic center appears to meet K.A.R. 5-4-4, *Well spacing* as the geographic center of the battery of wells maintains 660 feet of spacing to all the nearby domestic wells and 1,320 feet to the non-domestic well. The standby well appears to meet the required well to well spacings from the nearby wells and the spacing of the standby well to the battery is exempt per part (c) of K.A.R. 5- 1-2, *Standby well*. The hydrology information supplied by Brad Vincent, GWA, indicates the change should not cause impairment in this area. The applicant's well identification numbers were confirmed with the applicant and GWA.

Brett Bunger, Water Commissioner, Topeka Field Office, was sent a copy of this memorandum for comments and a recommendation on the proposed changes. He indicated in an e-mail dated February 1, 2024, that he recommends approval of the changes.

Water flowmeters will be required according to K.S.A. 82a - 706c. A check valve will be required if chemigating. Water level measurement tube will be a condition of the approvals. As a WWC-5 log was submitted with the application it will not be a conditions of the approvals. The owner will be required to submit notice of completion for the change.

Based on the above discussion, there will be no change in the local source of supply and impairment to existing water rights is unlikely, it is recommended the applications for change be approved.



Leslie Ireland
Environmental Scientist
Water Appropriation Program

Ireland, Leslie [KDA]

From: Bunger, Brett [KDA]
Sent: Thursday, February 1, 2024 9:50 AM
To: Ireland, Leslie [KDA]
Subject: RE: Review and Recommendation, Change PD File Nos. 40483 41694 44686 48308 Timber Creek

Leslie, this appears to meet spacing and safe yield is not an issue. With that said I recommend approval of these applications

Brett

Brett Bunger
Water Commissioner
Topeka Field Office
785-296-7064

From: Ireland, Leslie [KDA] <Leslie.Ireland@ks.gov>
Sent: Monday, January 29, 2024 2:42 PM
To: Bunger, Brett [KDA] <Brett.Bunger@ks.gov>
Subject: Review and Recommendation, Change PD File Nos. 40483 41694 44686 48308 Timber Creek

Brett,

Happy KS Day!

Please let me know if you would recommend the proposed change in PD for these overlapping files.

As always comments and concerns are welcome.

Leslie Ireland
Environmental Scientist
Change Application Unit
Division of Water Resources



THE STATE  OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Mike Beam, Secretary of Agriculture

DIVISION OF WATER RESOURCES
Earl D. Lewis Jr., Chief Engineer

**APPROVAL OF APPLICATION
FOR
CHANGE IN POINT OF DIVERSION
WATER RIGHT
FILE NO. 40,483**

The Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, after due consideration of the written application of Chad Kinsley, on behalf of the Timber Creek Water and Sewer Benefit District, 612 East Campbell Street, Westmoreland, Kansas 66549, received in this office on February 23, 2023, for approval of a change in the location of the point of diversion under the certificate of appropriation issued pursuant to the application for permit to appropriate water for beneficial use, finds that the change is reasonable and will not impair existing rights, that the change relates to the same local source of supply and that the application should be and is hereby approved.

The effective date of the change shall be the date this order is executed by the Chief Engineer, after which the authorized location of the points of diversion shall be:

a battery of two (2) primary wells with a geographical center located in the Southwest Quarter of the Northwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 10, more particularly described as being near a point 4,264 feet North and 2,399 feet West of the Southeast corner of said section,

the authorized location of the point of diversion authorized for standby use shall be:

one (1) standby well located in the Northwest Quarter of the Northwest Quarter of the Northeast Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$) of Section 10, more particularly described as being near a point 4,739 feet North and 2,630 feet West of the Southeast corner of said section,

all in Township 10 South, Range 8 East, Pottawatomie County, Kansas,

located substantially as shown on the topographic map accompanying the application to change the point of diversion.

This water right is further limited such that the wells which comprise the battery of wells shall be located within a three hundred (300) foot radius circle and in the same local source of supply.

All wells with a diversion rate of 100 gallons per minute or more drilled under the authority of this order shall have a tube or other device installed in a manner acceptable to, and in accordance with specifications adopted by, the Chief Engineer. This tube or device shall be suitable for making water level measurements and shall be maintained in a condition satisfactory to the Chief Engineer.

1320 Research Park Drive
Manhattan, KS 66502
785-564-6700
www. agriculture.ks.gov



900 SW Jackson, Room 456
Topeka, KS 66612
785-296-3556

Mike Beam, Secretary

Laura Kelly, Governor

March 4, 2024

CHAD KINSLEY
TIMBER CREEK WATER & SEWER BENEFIT DIST
POTTAWATOMIE CO PUBLIC WORKS DEPT
612 E CAMPBELL
WESTMORELAND KS 66549

RE: Water Right
File Nos. 40,483 and 41,694

Appropriation of Water
File Nos. 44,686; and 48,308

Dear Mr. Kinsley:

Enclosed are the orders executed by the Chief Engineer, Division of Water Resources, Kansas Department of Agriculture, approving the applications for change under the above referenced file numbers.

Your attention is directed to the enclosures and to the terms, conditions, and limitations specified in these approvals for change. A condition of the approvals is that acceptable water flow meters must be installed on the diversion works authorized. Please return the required notification of completion of the diversion works and installation of the required meter on the newly authorized well and standby well prior to the diversion of water.

Please note that the well described in the approval documents as the standby well shall be used exclusively at such time the well described in the approval document as the primary well is inoperable due to mechanical, maintenance or power failure. Use of the standby well under these limiting conditions does not allow the authorized quantity of water or rate of diversion under these files to be exceeded.

Since the orders under File Nos. 40,483 and 41,694, modify the certificates of appropriation under the referenced water rights, they should be recorded with the Register of Deeds as other instruments affecting real estate.

Additional information and the Notice of Completion form may be found on our website at agriculture.ks.gov/dwr. If you have any questions or need assistance with any of these requirements, please contact our office at 785-564-6640, or your local Topeka Field Office at 785-296-5733. If you call, please reference the file number so we can help you more efficiently.

Sincerely,

Kristen A. Baum
New Application Unit Supervisor
Division of Water Resources

KAB:kak:li
Enclosure(s)
pc: Topeka Field Office

RIGHT TO A HEARING AND TO ADMINISTRATIVE REVIEW

If you are aggrieved by this Order, then pursuant to K.S.A. 82a-1901, you may request an evidentiary hearing before the Chief Engineer or request administrative review by the Secretary of Agriculture. Failure to request an evidentiary hearing before the Chief Engineer does not preclude your right to administrative review by the Secretary.

To obtain an evidentiary hearing before the Chief Engineer, a written request for hearing must be filed within 15 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 18 days after this Order was mailed to you**), with: Kansas Department of Agriculture, Attn: Legal Division, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If you do not file a request for an evidentiary hearing before the Chief Engineer, you may petition for administrative review of the Order by the Secretary of Agriculture. A petition for review shall be in writing and state the basis for requesting administrative review. The request for review may be denied if the request fails to clearly establish factual or legal issues for review. See K.S.A. 77-527. The petition must be filed within 30 days after service of this Order as provided in K.S.A. 77-531 (**i.e., within a total of 33 days after this Order was mailed to you**), and be filed with: Secretary of Agriculture, Attn: Legal Division, Kansas Department of Agriculture, 1320 Research Park Drive, Manhattan, Kansas 66502, FAX 785-564-6777.

If neither a request for an evidentiary hearing nor a petition for administrative review is filed as set forth above, then this Order shall be effective and become a final agency action as defined in K.S.A. 77-607(b). Failure to timely request either an evidentiary hearing or administrative review may preclude further judicial review under the Kansas Judicial Review Act.

CERTIFICATE OF SERVICE

On this 4 day of March, 2024, I hereby certify that the foregoing Approval of Applications for Change in Point of Diversion, File Nos. 40,483, 41,694, 44,686 and 48,308, dated February 22, 2024, were mailed postage prepaid, first class, US mail to the following:

TIMBER CREEK WATER & SEWER BENEFIT DIST
POTTAWATOMIE CO PUBLIC WORKS DEPT
612 E CAMPBELL
WESTMORELAND KS 66549

With photocopies to:

KDA-DWR Topeka Field Office


Staff